



FREDERICK COUNTY PLANNING COMMISSION
August 12, 2020

TITLE: Hyattstown Business Park Expansion

FILE NUMBER: SP257739 (SP88-41), APFO #A258763,
FRO #F257746

REQUEST: **Site Development Plan Approval**
The Applicant is requesting Site Plan approval to expand the two existing buildings and construct associated improvements to the loading and parking areas.

PROJECT INFORMATION:

ADDRESS/LOCATION: 2190 and 2194 Urbana Pike
TAX MAP/PARCEL: Tax Map 106, Parcel 14
COMP. PLAN: Limited Industrial (LI)
ZONING: Limited Industrial (LI)
PLANNING REGION: Urbana
WATER/SEWER: W-5/S-5

APPLICANT/REPRESENTATIVES:

APPLICANT: Hyattstown Business Park, LLC
OWNER: Core Development Group, Inc.
ENGINEER: Dewberry
ARCHITECT: N/A
ATTORNEY: N/A

STAFF: Jerry Muir, Principal Planner I

RECOMMENDATION:

Approval

ATTACHMENTS:

Exhibit 1 – Rendered Site Plan
Exhibit 2 – Parking Modification letter
Exhibit 3 – Forest Resource Modification letter
Exhibit 4 - APFO Letter of Understanding

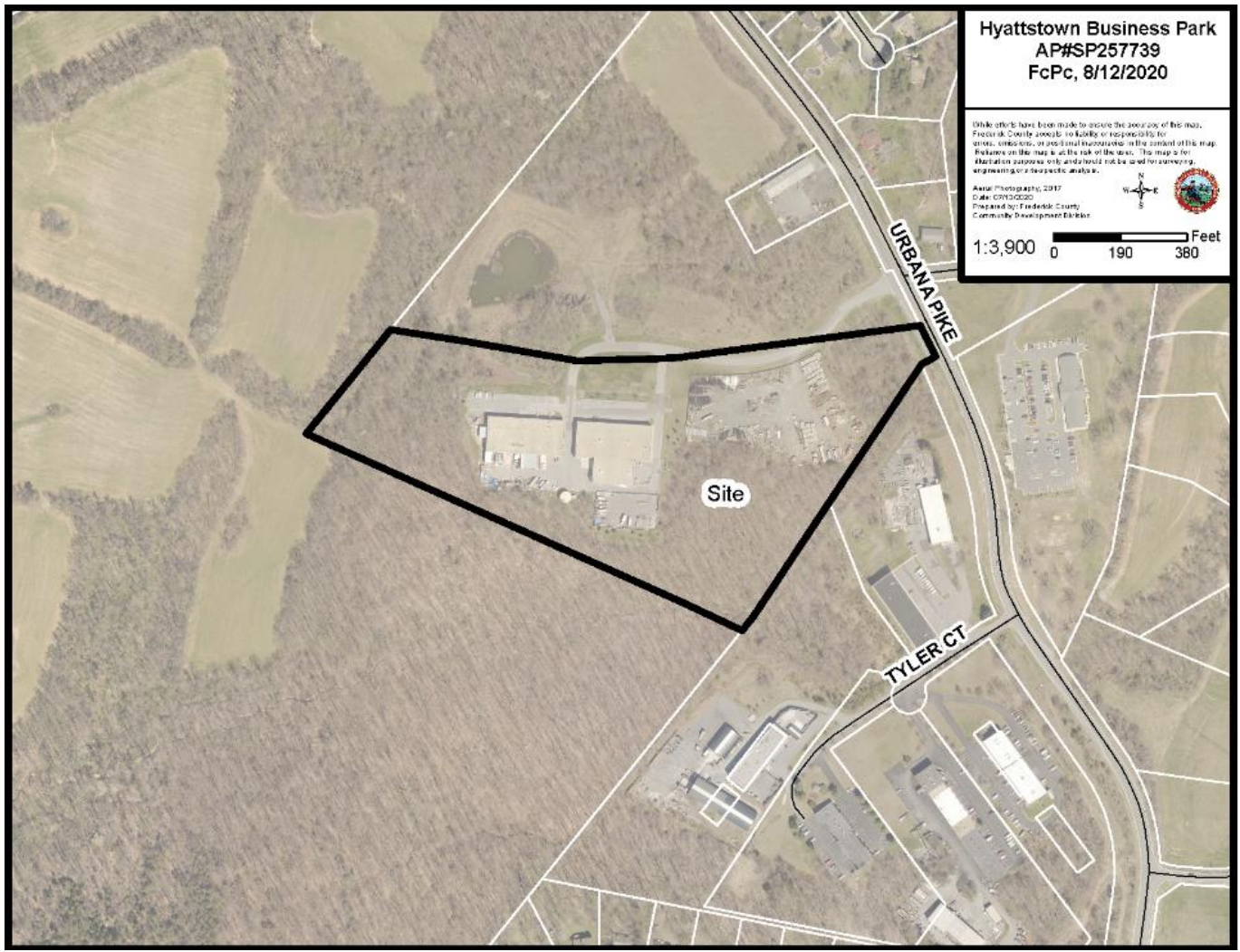
STAFF REPORT

ISSUE

The Applicant is requesting Site Plan approval to expand both buildings of the existing business park and construct new parking and loading area expansions to serve the new additions. 2194 Urbana Pike will add 25,000 SF for a total building area of 52,315 SF and 2190 Urbana Pike will add 11,500 SF for a total of 42,180 SF. The proposed use is being reviewed as a limited manufacturing and assembly under §1-19-5.310 (Use Table) of the Zoning Ordinance, with an accessory office component. It is a principal permitted use in the Limited Industrial (LI) Zoning District subject to site development plan approval.

The Site shows a single commercial entrance onto Urbana Pike as well as three internal entrances off the private drive serving the Site.

Figure 1: Site Vicinity Map – Aerial Image



BACKGROUND

Development History: Lot 1 was recorded in the late 1990's and the site plans SP 99-41 and 99-41B were approved for the two buildings. A subsequent Type II site plan (AP19981) was approved to bring the Site into compliance and address minor additions to the Site. The applicant has historically and continues to work with the County and State to preserve the right-of-way for the future MD 75 Relocated that would eventually connect with I-270 via a new interchange.

Existing Site Characteristics: The Site is currently developed with the two buildings on a relatively flat space. There are steep, forested slopes to the west of 2194 Urbana Pike and the land behind the buildings generally slopes steeply to the south and is also forested.

Surrounding Land Uses: The lot adjoins other LI zoned properties to the north, south and east.

ANALYSIS

Summary of Development Standards Findings and Conclusions

The Site is suited to the proposed use but the steep slopes do present design and access challenges, particularly in relation to the Forest Resource Ordinance, to be discussed later in this report.

Detailed Analysis of Findings and Conclusions

Site Development Plan Approval shall be granted based upon the criteria found in §1-19-3.300.4 Site Plan Review Approval Criteria of the Frederick County zoning ordinance.

Site Development §1-19-3.300.4 (A): *Existing and anticipated surrounding land uses have been adequately considered in the design of the development and negative impacts have been minimized through such means as building placement or scale, landscaping, or screening, and an evaluation of lighting. Anticipated surrounding uses shall be determined based upon existing zoning and land use designations.*

Findings/Conclusions

- 1. Dimensional Requirements/Bulk Standards §1-19-6.100:** The proposed Site Development Plan adheres to the lot dimensions required for limited manufacturing and assembly use in the limited industrial zone as established in Section 1-19-6.100.

The proposed setbacks for the facility are the following:

	<u>Required</u>	<u>Proposed</u>
Minimum Lot Area	20, 000 sf	27.35 ac.
Minimum Lot Width	100'	varies, in excess of 100'
Front Yard	25'	25' (270')
Side Yard	equal to Bldg. hgt. 26'	28' (E 360', W 176')
Rear Yard	20'	20' (171')
Max Building Height	60'	26-28'

- 2. Signage §1-19-6.300:** Per the zoning ordinance, the maximum signage allowed for business identification in the LI zoning district is calculated based upon the following formula:

10 x the square root of the building frontage equals 262 SF of signage. The maximum height allowed is 25 feet with a setback of 12.5'.

For this Site Plan proposal, there is no new signage proposed at this time.

3. Landscaping & Screening §1-19-6.400

The proposed on-site landscaping is in conformance with the zoning requirements. Nine new on-site trees are provided along with the required numbers of shrubs in the parking islands. The required 20% canopy coverage over the parking areas is exceeded, with 29% canopy coverage proposed. The plantings are largely native varieties.

- 4. Lighting §1-19-6.500:** The Applicant proposes the installation of 20' building mounted lights to light the addition area. The existing 20' pole lights to the rear in the parking area will be adjusted to accommodate the new parking and loading design. The plan notes all lights will be directed downward and shielded to cast no off site glare. The plan states there will be no encroachment beyond .5 foot-candles at the property lines.

Transportation and Parking §1-19-3.300.4 (B): *The transportation system and parking areas are adequate to serve the proposed use in addition to existing uses by providing safe and efficient circulation, and design consideration that maximizes connections with surrounding land uses and accommodates public transit facilities. Evaluation factors include: on-street parking impacts, off-street parking and loading design, access location and design, vehicular, bicycle, and pedestrian circulation and safety, and existing or planned transit facilities.*

Findings/Conclusions

- 1. Access/Circulation & Pedestrian Circulation and Safety §1-19-6.220 (G):** Access to and from the Site is adequate, a private drive from a single entrance on Urbana Pike. There are currently two drive entrances off the private drive, one for each building. The plan proposes a third drive for building 2194 (to the west) designed to serve truck traffic to the Site separately from the employee vehicular traffic. The existing drive to 2190 (to the east) will be abandoned and shifted further east to allow trucks to enter the rear of the building after the addition. Pedestrian access is not a feature of this industrial area. Sidewalks do not exist anywhere except internally on the Site.
- 2. Connectivity §1-19-6.220 (F):** Site circulation is internally adequate and will be improved with the proposed changes to the drive circulation.
- 3. Public Transit:** This Site is not served by public transit.
- 4. Vehicle Parking §1-19-6.220:** Parking standards are established for limited manufacturing and assembly uses in the Zoning Ordinance as one space for every two employees on the largest shift.

The applicant has submitted a parking modification to be allowed to increase the on-site parking as follows:

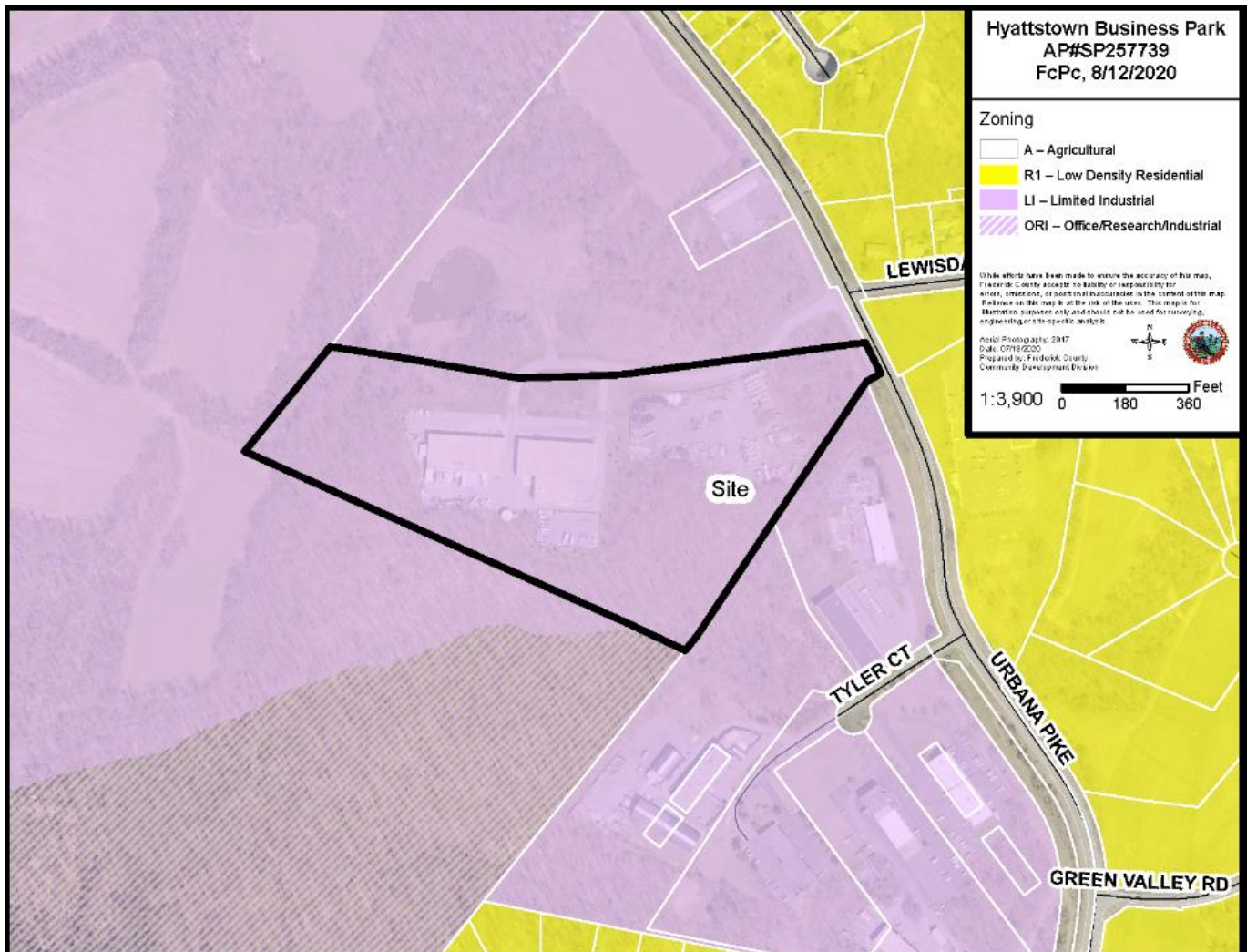
2190 shows 60 employees and 8 company vehicles = 38 spaces req. 54 provided +16 spaces
2194 shows 90 employees and 5 company vehicles = 50 spaces req. 92 provided + 42 spaces

The applicant request a modification of an additional 58 spaces on the Site; from 88 required to 146 provided.

- 5. Loading §1-19-6.210.B:** Loading is required as follows: a minimum of one space for 5,000 SF and one for each additional 10,000 SF.
For 2190 Urbana Pike, 42,180 SF requires 4 loading spaces and 4 are provided.

For 2194 Urbana Pike, 52,315 SF requires 6 loading spaces and 10 are provided.

6. **Bicycle Parking §1-19-6.220 (H):** In accordance with Z.O. § 1-19-6.220, one bike rack is required for each building and one is provided.



Public Utilities §1-19-3.300.4 (C): Where the proposed development will be served by publicly owned community water and sewer, the facilities shall be adequate to serve the proposed development. Where proposed development will be served by facilities other than publicly owned community water and sewer, the facilities shall meet the requirements of and receive approval from the Maryland Department of the Environment/the Frederick County Health Department.

Findings/Conclusions

1. **Public Water and Sewer:** The Site is classified as W-5 S-5 and is currently served by well and septic.

Natural features §1-19-3.300.4 (D): Natural features of the site have been evaluated and to the greatest extent practical maintained in a natural state and incorporated into the design of the development. Evaluation factors include topography, vegetation, sensitive resources, and natural hazards.

Findings/Conclusions

1. **Topography:** The Site is steeply sloped and a great deal of grading to the west side of the Site will be required to establish the addition and the new truck entrance.
2. **Vegetation:** The Site is forested to the west and south and will require a Forest Resource Modification to accomplish the construction proposed on the site plan.
3. **Sensitive Resources:** No wet or flooding soils or wetlands are present on the Site
4. **Natural Hazards:** There is an existing FEMA floodplain on the Site. The plan marks a 50' floodplain buffer but only a 25' buffer is required. With the 25' buffer there is only a small corner of the driveway apron within the floodplain. With the removal of the existing entrance and driveway there will be a net reduction of floodplain development.

Other Applicable Regulations

Stormwater Management – Chapter 1-15.2: A Concept Stormwater Plan has been submitted and is Conditionally Approved for this Application (PW257745).

APFO – Chapter 1-20:

Schools: The Project is non-residential and not subject to schools testing.

Water and Sewer: This Project is classified as W-5/S-5. Public water and sewer are not available to the Site. The property will be served by private well and septic system.

Road Improvements: The Project will generate up to 23 am and 24 pm new weekday peak hour trips, which does not exceed the 50 peak hour trip threshold required for APFO testing. In accordance with Section 1-20-12(H) of the APFO, the Developer is required to pay its proportionate contributions toward existing road escrow accounts, a total of \$23,486, as noted in the attached Letter of Understanding (LOU).

Period of Validity: The APFO approval is valid for three (3) years from the date of Commission approval; therefore, the APFO approval will expire on August 12, 2023.

Forest Resource – Chapter 1-21:

The Applicant has submitted a Combined Preliminary/Final Forest Conservation Plan. The plan set outlines the forest conservation mitigation requirements for the Site. The property contains 13.56 acres of existing forest. The Applicant proposes to place 5.82 acres of forest into a FRO easement.

The Site contains 15 specimen trees (trees 30" or greater in diameter). The Applicant is proposing to remove 9 specimen trees; the remaining 6 specimen trees will be retained and protected.

The Applicant is seeking a modification of the Forest Resource Ordinance (FRO) to permit the removal of the following specimen trees under the provisions of §§1-21-21 and 1-21-40:

Tree ID #	Size and Species	Location	Condition
1	32" Red Oak	Northwest side of property, north of proposed parking expansion	Fair
2	35" Tulip Tree	Northwest side of property, north of proposed building expansion, within proposed parking lot extension	Fair

3	31" Tulip Tree	West side of property, within proposed building expansion footprint	Good
8	33" Red Maple	Northwest side of property, north of proposed building expansion, within proposed perimeter truck loop road	Good
9A	32" Tulip Tree	West side of property, west of proposed building expansion, within proposed perimeter truck loop road	Good
11	39" Tulip Tree	Southwest side of property, southwest of proposed building expansion, within proposed perimeter truck loop road	Fair
12	37" White Oak	West side of property, west of proposed building expansion, within grading area between parking lot and truck loop road	Good
13	33" White Oak	West side of property, west of proposed building expansion, within proposed perimeter truck loop road	Good
14	33" Tulip Tree	Southwest side of property, southwest of proposed building expansion, within grading area	Good

The Applicant's FRO Modification Request (Exhibit 3) discusses each tree, its condition, and why its removal is proposed:

Per §1-21-40 of the FRO, nonhazardous specimen trees must be retained unless reasonable efforts have been made to protect them, the plan cannot reasonably be altered, and the FCPC finds that the requirements for granting a modification have been met.

§ 1-21-21. MODIFICATIONS.

(A) Modification requests. A person may submit a request to the Frederick County Planning Commission (FCPC) for a modification from this chapter or the requirements of Md. Code Ann., Natural Resources Article, §§ 5-1601 through 5-1612, if the person demonstrates that enforcement would result in unwarranted hardship to the person.

(B) Required information. An applicant for a modification shall:

- (1) Describe the special conditions peculiar to the property that would cause the unwarranted hardship;
- (2) Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;
- (3) Verify that the granting of the modification will not confer on the landowner a special privilege that would be denied to other applicants;
- (4) Verify that the modification request is not based on conditions or circumstances that are the result of actions by the applicant;
- (5) Verify that the request does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; and
- (6) Verify that the granting of a modification will not adversely affect water quality.

(C) Modification approval. The FCPC must make a finding that the applicant has met the requirements in subsection (B) of this section and that enforcement would cause the applicant unwarranted hardship before the FCPC may approve any modification. [Emphasis added.]

In order for the FCPC to grant a modification to allow the removal of specimen trees, the FCPC must

find:

- that reasonable efforts have been made to protect the specimen trees and that the plan cannot reasonably be altered (in accordance with § 1-21-40 (B)(1), and;
- that the Applicant meets the six criteria outlined under §1-21-21 (B) (a detailed discussion of the six criteria is provided in the Applicant's modification request)

Conditions of Approval

The Preliminary/Final FRO plan must be approved prior to Site Plan approval. FRO mitigation must be provided prior to applying for grading permits or building permits, whichever is applied for first.

Summary of Agency Comments

<i>Other Agency or Ordinance Requirements</i>	<i>Comment</i>
<i>Public Works Development Review (PWDR):</i>	Approval
<i>Development Review Planning:</i>	Approval
<i>DUSWM:</i>	Approval
<i>Street Name Review</i>	Approval
<i>Health Dept.</i>	Approval
<i>Office of Life Safety</i>	Approval
<i>Traffic Engineering</i>	Approval
<i>APFO</i>	Approval
<i>FRO</i>	Approval
<i>SHA</i>	Approval

RECOMMENDATION

Staff has no objection to conditional approval of this Site Development Plan. If the Planning Commission conditionally approves the Site Development Plan, the plan is valid for a period of three (3) years from the date of Planning Commission approval (valid through August 12, 2023).

Based upon the findings, conclusions, and modifications as presented in the staff report, Staff finds that the application meets or will meet all applicable Zoning, APFO, and FRO requirements once the following modifications are granted and conditions met:

Planning Commission approval of the following modification requests from the Applicant:

1. Modification of parking requirements to allow 146 spaces rather than the 88 required. A modification of 58 additional parking spaces.
2. Modification of the Forest Resource Ordinance to remove 9 specimen trees.

Staff-proposed conditions of approval:

1. Address all agency comments as the plan proceeds through to completion.
2. The proposed addition plat must be approved and recorded prior to site plan approval.
3. The Preliminary/Final FRO plan must be approved prior to Site Plan approval. FRO

mitigation must be provided prior to applying for grading permits or building permits, whichever is applied for first.

PLANNING COMMISSION ACTION

MOTION TO APPROVE

I move that the Planning Commission **APPROVE** SP257739, APFO A258763, FRO F257746, including APFO and FRO approval, with the modifications and conditions as listed in the staff report for the proposed Hyattstown Business Park expansion, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.

Exhibit 1: Rendered Site Plan



Exhibit 2: Parking Modification Request



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www.dewberry.com

March 5, 2020 (Updated April 8, 2020)

Michael Wilkins
Frederick County Government Division of Planning & Permitting
30 N. Market Street
Frederick, MD 21701

RE: Hyattstown Business Park – Site Plan (SP#257739) – Parking Modification Request

Dear Mr. Wilkins,

On behalf of our Client, Hyattstown Business Park, LLC, we respectfully submit for your consideration this request for modification set forth in the Frederick County Zoning Ordinance. In addition, we are providing justification for the requested modification below as follows:

Parking Modification

Pursuant to §1-19-6.200(A)(1) of the Zoning Ordinance, parking spaces shall be limited to the number of spaces required by the proposed use in the table found in 1-19-6.220 and an increase or reduction in the number of required spaces may be granted by the Planning Commission. Based on the Industrial Use, a target of one space is required for every (2) employees on the largest shift plus an additional space for each motor vehicle used in the business. Therefore, the target number of parking spaces required is 88 as described below:

- 2190 Urbana Pike = 38 Spaces
 - 60 Employees
 - 8 Company Vehicles (Per Original Site Plan Approvals)
- 2194 Urbana Pike = 50 Spaces
 - 90 Employees
 - 8 Company Vehicles (Per Recent Site Plan Approval, AP#19981)

The Applicant respectfully requests that an additional 58 spaces be approved over the 88 spaces required for the Industrial Use in order to both accommodate the needs of their current tenants for both 2190 and 2194 Urbana Pike (for staff and customer parking) and to provide adequate additional parking to serve any future growth of current tenant's businesses and meet the needs of any possible future tenants.

We respectfully request your approval of modification described above. Should you have any questions or require additional information, please do not hesitate to contact this office.

Sincerely,

George Warholc, RLA
Project Manager

cc: Mr. Henry Forster, Hyattstown Business Park, LLC
Mr. Ross Ostrander, Hyattstown Business Park, LLC
Mrs. Joanne Cheok, Dewberry Engineers

Page 1 of 1

Exhibit 3 Forest Modification



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March 4, 2020
Revised April 8, 2020

Mike Wilkins
Frederick County Government
Community Development Division
30 N. Market Street
Frederick, MD 21701

RE: Hyattstown Business Park Expansion
Request for FRO Modification – Specimen Tree Modification
Site Plan #SP257739 and FRO Plan #F257746

Dear Mr. Wilkins,

On behalf of the applicant, Hyattstown Business Park, LLC, we are requesting a Modification from the provisions of § 1-21-40(B)(1)(e) of the Frederick County Code, also known as the Forest Resource Ordinance (FRO) of Frederick County, to allow for the disturbance of trees, shrubs, and plants in priority areas which include nonhazardous trees that:

- (1) Are part of a historic site;
- (2) Are associated with a historic structure;
- (3) Have been designated by the state or the Department as a national, state, county, or municipal champion tree; and
- (4) Are specimen trees, or are 75 percent or more of the diameter, measured at 4.5 feet above the ground, of the current state champion tree of that species as designated by the Department of Natural Resources.

A nonhazardous tree is defined as:

A tree that is not considered unsafe due to 1 of the following:

- (1) *A combination of a structural defect and a target:*
 - (a) *A structural defect that predisposes the tree to failure, in whole, or in part, including, but not limited to: large basal cavity, trunk rot, cracks, breaks, splits, unusual branching structure, improper pruning and top-heavy conditions;*
 - (b) *A target, such as a structure, road, walkway, campsite or other area where human occupation or pedestrian activity is likely to occur;*
- (2) *Interference with routine activities of people or built structures, such as, but not limited to, obstructing motorists' vision, raising sidewalks, attracting lightning, and disrupting utilities.*

Mike Wilkins
 Hyattstown Business Park Expansion
 Request for FRO Modification – Specimen Tree Variance
 Site Plan #SP257739 and FRO Plan #F257746
 March 4, 2020 / Revised April 4, 2020

The Applicant is seeking a modification to permit the removal of nine (9) non-hazardous specimen trees and the disturbance to the critical root zone (CRZ) of four (4) non-hazardous specimen trees to accommodate the proposed improvements for an expansion of existing commercial buildings, parking lots and associated grading.

Pursuant to §5-1611 of the Natural Resources Article of the Maryland Annotated Code and §1-21-21 of the Fredrick County Code, we respectfully submit this request for a Modification from Chapter 1-21 and provide the following justification explaining the special features, site circumstances or other information that demonstrates that enforcement of the Code would result in an unwarranted hardship to the Applicant.

This Variance is being submitted for review and approval in conjunction with Site Plan #SP257739 and Forest Resource Ordinance Plan #F25774.

Background

This Modification Request accompanies the submission of a site plan that proposes expansions to two existing commercial buildings (2194 and 2190 Urbana Pike) totaling approximately 36,500 square feet, infrastructure improvements, a redesigned vehicular driveway network, and expanded surface parking lots. The project site is situated on the southwest side of Urbana Pike (Maryland Route 355), adjacent to its intersection with Lewisdale Road on Parcel 14 (Lot 1, Section 3 Courembis Subdivision) found on Tax Map 106, Grid 13. Access to the site will continue to utilize the existing driveway entrance at Urbana Pike and Lewisdale Road.

Variance Trees

This Variance requests the removal of nine (9) non-hazardous specimen trees and disturbance of the critical root zone (CRZ) to four (4) specimen trees as described in the below table and as shown on the Forest Resource Ordinance Plan:

Tree#	Common Name	Scientific Name	DBH(in.)	Condition	Remarks	Proposed Action
1	Northern Red Oak	<i>Quercus borealis</i>	32	Fair	Lower limb loss; terminal dieback	To be Removed
2	Tulip Tree	<i>Liriodendron tulipifera</i>	35	Fair	Poison ivy on base; lower limb loss; terminal dieback	To be Removed
3	Tulip Tree	<i>Liriodendron tulipifera</i>	31	Good	Lower limb loss	To be Removed
4	Green Ash	<i>Fraxinus pennsylvanica</i>	45	Good	Lower limb loss	Saved - CRZ to be impacted
7	Tulip Tree	<i>Liriodendron tulipifera</i>	37	Good	Some lower limb loss	Saved - CRZ to be impacted
8	Red Maple	<i>Acer rubrum</i>	33	Good	2 primaries at 18'; large limb hanging in canopy	To be Removed
9A	Tulip Tree	<i>Liriodendron tulipifera</i>	32	Good	Deer stand	To be Removed



9B	Northern Red Oak	<i>Quercus borealis</i>	33	Fair	2 primaries at 6'; base rot at locations	Saved - CRZ to be impacted
10	Northern Red Oak	<i>Quercus borealis</i>	45	Good	Lower limb loss; terminal dieback	Saved - CRZ to be impacted
11	Tulip Tree	<i>Liriodendron tulipifera</i>	39	Fair	Lower limb loss	To be Removed
12	White Oak	<i>Quercus alba</i>	37	Good	Lower limb loss	To be Removed
13	White Oak	<i>Quercus alba</i>	33	Good	Significant trunk lean	To be Removed
14	Tulip Tree	<i>Liriodendron tulipifera</i>	33	Good	2 primaries at 6'	To be Removed

Explanation of Proposed Disturbances to Individual Trees

Specimen Tree #1 (32" d.b.h. Northern Red Oak) – Proposed for Removal

Tree #1 is located approximately 80 feet west of the existing western parking lot within Forest Stand A. Based on the proposed development plan, the tree lies within the proposed fill grading to accommodate the proposed parking lot expansion. The apparent health of the tree is considered 'Fair' with lower limb loss and terminal dieback observed in the field. There are no apparent structural defects observed, nor is a potential target present. Since none of the criteria is met, this tree is considered non-hazardous. Removal of this non-hazardous tree is required for the parking lot expansion due to approximate 11' feet of fill needed to facilitate the grading needed to accommodate the building and parking lot expansion. No feasible alternative will allow for the protection or preservation of this tree.

Specimen Tree #2 (35" d.b.h. Tulip Tree) – Proposed for Removal

Tree #2 is located approximately 95 feet west of the existing western parking lot within Forest Stand A. Based on the proposed development plan, the tree lies within the proposed parking lot expansion. The apparent health of the tree is considered 'Fair' with lower limb loss and terminal dieback observed in the field. There are no apparent structural defects observed, nor is a potential target present. Since none of the criteria is met, this tree is considered non-hazardous. Removal of this non-hazardous tree is required for the construction of the parking lot expansion. No feasible alternative will allow for the protection or preservation of this tree.

Specimen Tree #3 (31" d.b.h. Tulip Tree) – Proposed for Removal

Tree #3 is located approximately 195 feet west of the existing western building (#2194) within Forest Stand A. Based on the proposed development plan, the tree lies within the proposed building expansion. The apparent health of the tree is considered 'Good' with lower limb loss observed in the field. There are no apparent structural defects observed, nor is a potential target present. Since none of the criteria is met, this tree is considered non-hazardous. Removal of this non-hazardous tree is required for the building footprint expansion for building #2194. No feasible alternative will allow for the protection or preservation of this tree.



Specimen Tree #4 (45" d.b.h. Green Ash) – Save, Proposed Impact to CRZ

Tree #4 is located approximately 260 feet northwest of the existing western parking lot within Forest Stand A. Based on the proposed development plan, the tree lies within the reservation area and will be impacted by the tie-out grading for the proposed vehicular driveway extension (truck route). The apparent health of the tree is considered 'Good' with lower limb loss observed in the field. There are no apparent structural defects observed, nor is a potential target present. Since none of the criteria is met, this tree is considered non-hazardous. Impacts to this non-hazardous tree is required for the parking lot expansion and driveway reconfiguration. **Refer to alternative analysis.**

Specimen Tree #7 (37" d.b.h. Tulip Tree) – Save, Proposed Impact to CRZ

Tree #7 is located approximately 175 feet northwest of the existing western parking lot within Forest Stand A. Based on the proposed development plan, the tree also lies within the reservation area and the tie-out grading for the proposed vehicular driveway extension. The apparent health of the tree is considered 'Good' with lower limb loss observed in the field. There are no apparent structural defects observed, nor is a potential target present. Since none of the criteria is met, this tree is considered non-hazardous. Impacts to this non-hazardous tree is required for the parking lot expansion and driveway reconfiguration. **Refer to alternative analysis.**

Specimen Tree #8 (33" d.b.h. Red Maple) – Proposed for Removal

Tree #8 is located approximately 90 feet northwest of the existing western parking lot within Forest Stand A. Based on the proposed development plan, the tree lies within the proposed vehicular driveway extension (truck route). The apparent health of the tree is considered 'Good' with no apparent structural defects observed, nor potential target present. Since none of the criteria is met, this tree is considered non-hazardous. Removal of this non-hazardous tree is required for the proposed driveway reconfiguration. **Refer to alternative analysis.**

Specimen Tree #9A (32" d.b.h. Tulip Tree) – Proposed for Removal

Tree #9A is located approximately 340 feet west of the existing western building (#2194) within Forest Stand A. Based on the proposed development plan, the tree lies within the proposed vehicular driveway extension (truck route). The apparent health of the tree is considered 'Good' with no apparent structural defects observed, nor potential target present. Since none of the criteria is met, this tree is considered non-hazardous. Removal of this non-hazardous tree is required for the proposed driveway reconfiguration. **Refer to alternative analysis.**

Specimen Tree #9B (33" d.b.h. Northern Red Oak) – Save, Proposed Impact to CRZ

Tree #9B is located approximately 350 feet southwest of the existing western building (#2194) within Forest Stand A. Based on the proposed development plan, the tree lies within close proximity to proposed fill grading to accommodate the proposed service / loading area expansion. The apparent health of the tree is considered 'Fair' with rot at several locations at the trunk base observed in the field. With only a structural defect, but no potential target present, this tree only meets one criterion. Since only one of the criteria is met, this tree is considered non-hazardous. Impacts to this non-hazardous tree is required for the service / loading area expansion and the associated grading. **Refer to alternative analysis.**

Specimen Tree #10 (45" d.b.h. Northern Red Oak) – Save, Proposed Impact to CRZ

Tree #10 is located approximately 330 feet southwest of the existing western building (#2194) within Forest Stand A. Based on the proposed development plan, the tree lies within the proposed fill grading to accommodate the proposed service / loading area expansion. The apparent health of the tree is considered 'Good' with lower limb loss and terminal dieback observed in the field with no apparent structural defects observed, nor potential target present. Since none of the criteria is met, this tree is considered non-hazardous. Impacts to this non-hazardous tree is required for the service / loading area expansion, the associated grading and stormwater management facility grading. **Refer to alternative analysis.**

Specimen Tree #11 (39" d.b.h. Tulip Tree) – Proposed for Removal

Tree #11 is also located approximately 330 feet southwest of the existing western building (#2194) within Forest Stand A. Based on the proposed development plan, the tree lies within the proposed vehicular driveway (truck route) extension/relocation. The apparent health of the tree is considered 'Fair' with lower limb loss observed in the field with no apparent structural defects observed, nor potential target present. Since none of the criteria is met, this tree is considered non-hazardous. Removal of this non-hazardous tree is required for the proposed driveway reconfiguration. **Refer to alternative analysis.**

Specimen Tree #12 (37" d.b.h. White Oak) – Proposed for Removal

Tree #12 is also located approximately 300 feet southwest of the existing western building (#2194) within Forest Stand A. Based on the proposed development plan, the tree lies between the proposed vehicular driveway extension/relocation and parking lot expansion. The location of this tree will require 12' of fill to facilitate the tie-out grading. The apparent health of the tree is considered 'Good' with lower limb loss observed in the field with no apparent structural defects observed, nor potential target present. Since none of the criteria is met, this tree is considered non-hazardous. Removal of this non-hazardous tree is required for the proposed driveway reconfiguration and parking lot expansion. **Refer to alternative analysis.**

Specimen Tree #13 (33" d.b.h. White Oak) – Proposed for Removal

Tree #13 is located approximately 350 feet west of the existing western building (#2194) within Forest Stand A. Based on the proposed development plan, the tree lies within the proposed vehicular driveway (truck route) extension/relocation. The apparent health of the tree is considered 'Good' with significant lean observed. With only a structural defect, but no potential target present, this tree only meets one criterion. Since only one of the criteria is met, this tree is considered non-hazardous. Removal of this non-hazardous tree is required for the proposed driveway reconfiguration. **Refer to alternative analysis.**

Specimen Tree #14 (33" d.b.h. Tulip Tree) – Proposed for Removal

Tree #14 is located approximately 400 feet southwest of the existing western building (#2194) within Forest Stand A. Based on the proposed development plan, the tree lies within the proposed fill grading to accommodate the proposed service / loading area expansion. The location of this tree will require 14' of fill to facilitate the tie-out grading. The apparent health of the tree is considered 'Good' with no apparent structural defects observed, nor potential target present. Since none of the criteria is met, this tree is considered non-hazardous. Removal of this non-hazardous tree is required for the service / loading area expansion.



Alternative analysis

Analysis of alternative truck route layout and grading plan Refer to Exhibit A

In an effort to examine an alternate layout for the western end of the proposed expansion, specifically the reconfiguration of the proposed truck route and elimination of a bay of parking spaces, to determine if there is potential to preserve specimen trees originally proposed for removal. The alternative layout, although highly undesirable by the current tenant due to the conflict between passenger vehicles and tractor trailers and the reduced maneuverability of larger vehicles through the parking lot, would direct the truck traffic through the parking lot and allow access to the rear loading area.

The exhibit eliminates the segregated truck route and one bay of thirteen (13) parking spaces. With the removal of the truck route, the stormwater management (SWM) facility that is proposed on the inside of the route would need to be relocated uphill, just behind the outermost fringe of the parking lot and will require a relatively flat terrace to facilitate the required SWM facility grading. Just past the SWM facility, the slope is graded down and out at a 3:1 slope, just as in the original layout. With this alternative layout, the grading extent encroaches through trees #9A, #11, #13 as the as in the original layout and impact the CRZ of tree #14. The grading places 3' to 7' of fill at the trunk locations and the depth of fill increases significantly as the slope increases in elevation uphill (to the east). The examination of the alternate demonstrates that three (3) of the four (4) trees that are proposed for removal are also removed with this layout, therefore, retaining the proposed truck route is sought as it maintains the desired intent of keeping truck traffic separated from passenger car parking and circulation. The possibility of incorporating retaining walls is discussed below.

As part of the analysis, it was determined that four (4) trees #4, #7 #9B and #10 can be preserved. The proposed grading off of the north east radius of the truck route was refined and Trees #4 and #7, located in the reservation area, will be preserved. These trees will require impacts (less than 30%) to the uphill sides of the CRZ's to allow for fill for the proposed grade to tie out to existing. In addition, the loading area off of the south west corner of the building #2194 expansion was reduced to allow for grading refinement, this along with the reconfiguration the SWM facility and outfall location allows for the preservation of Trees #9B and #10. Here too, these trees will require impacts (less than 30%) to the uphill sides of the CRZ's.

Analysis of retaining walls to preserve the CRZ of trees #9A, #11, #13 and #14 Refer to Exhibit B

Examination of the possibility of providing retaining walls around the CRZ of trees #9A, #11, #13 and #14 concludes that a wall totaling approximately 300 linear feet and measuring 14' tall for 160' of that length. The other two wings of the wall would be approximately 80' and 60' and will vary in height from 14' to 0' as these walls would follow the tie out grading downhill. Considering these dimensions in addition to the necessary 3' depth to footer along the entire length, the approximate square feet of total wall face is estimated at 4,100 SF at a cost of \$40 per SF, plus railing at \$50 per LF and footer at \$100 per LF the approximate cost this wall would be \$210,000. This is a substantial cost for the preservation of four (4) trees especially if there are existing un-observable issues / conditions with trees or other potential natural issues such as insect infestation, disease, wind damage or lightning. All too often, there is a good intent in extensive and costly measures to preserve trees, that unfortunately end up being all for not due to unforeseen events or circumstances.

Pursuant to § 1-21-21 of the Fredrick County Code, a written request may be submitted to the Fredrick County Planning Commission (FCPC) to request a modification from the Chapter or any regulation adopted under it if it is demonstrated that enforcement would result in unwarranted hardship to the person. Under § 1-21-21(B) *Required Information*, states that an applicant for a modification must:

- (1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship;
- (2) Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;
- (3) Verify that the granting of the modification will not confer on the landowner a special privilege that would be denied to other applicants;
- (4) Verify that the modification request is not based on conditions or circumstances that are the result of actions by the applicant;
- (5) Verify that the request does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; and
- (6) Verify that the granting of a modification will not adversely affect water quality.

As required, we provide the following justification:

(1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship;

The proposed removal of nine (9) and disturbance to four (4) specimen trees is needed to implement the proposed project expansion and to ensure conformance with the Forest Conservation Plan.

A number of constraints/conditions peculiar to the Subject Property affect the proposed layout and which, enforcement of the Chapter would result in an unwarranted hardship. The expansion of building #2194 can only encroach into two directions, that being to the west and south as proposed. This is due to the existing internal building infrastructure and layout to which an expansion can be reasonably improved upon. No building expansion can be directed to the north as the existing reservation strip for the future Route 75 extension has influenced the "frontage" layout along this reservation including the existing parking lot and current location of the present building.

The Alternative Analysis demonstrates that if the truck route was eliminated, although not desired, the grading required would still require the removal of four (4) trees. Due to these conditions, if the request for the removal of these trees is denied, the proposed expansion would not be feasible and would cause an unwarranted hardship to the applicant.

(2) Describe how enforcement of this Chapter will deprive the landowner of rights commonly enjoyed by others in similar areas;

The preservation of the (9) specimen trees and prohibition of impacts to the CRZ of the four (4) specimen trees would preclude the implementation of proposed expansion to facilitate the growing needs of the current tenant. If the request is not granted, it will deprive the landowner of rights commonly enjoyed by others that develop similar properties with special conditions as this one.

(3) Verify that the granting of the modification will not confer on the landowner a special privilege that would be denied to other applicants;



The Planning Commission has previously granted requests for specimen tree removal to similar projects, therefore this will not confer the landowner a special privilege that would be denied to other applicants. An alternative analysis to examine the possibility of increasing the potential of preserving additional trees was prepared and is included herein.

(4) Verify that the modification request is not based on conditions or circumstances that are the result of actions by the applicant;

This request is based on circumstances that are the result of actions by the applicant. A site plan requesting the expansion of two existing buildings, associated parking, loading and vehicular drive (truck route) has been submitted for review and consideration by the Planning Commission.

(5) Verify that the request does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; and

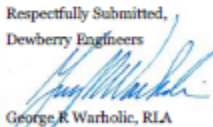
This request for the removal of nine (9) and impact to four (4) specimen trees does not arise from a condition related to land or building use on a neighboring property.

(6) Verify that the granting of a modification will not adversely affect water quality.

The project is subject to the Frederick County Stormwater Management Ordinance and Sediment and Erosion Control Ordinance which both are in accordance with State regulations. The removal of the thirteen (13) trees included in this request will not result in measurable degradation in water quality.

Thank you for your consideration of this Modification request. We believe that the supporting information presented with this letter provides adequate justification for the approval of the requested Modification to remove nine (9) and impact four (4) non-hazardous specimen trees. Please free to contact me at 301-337-2863 if you have any questions.

Respectfully Submitted,
Dewberry Engineers


George R. Warholc, RIA

Cc: Mr. Henry Forster, Hyattstown Business Park, LLC
Mr. Ross Ostrander, Hyattstown Business Park, LLC

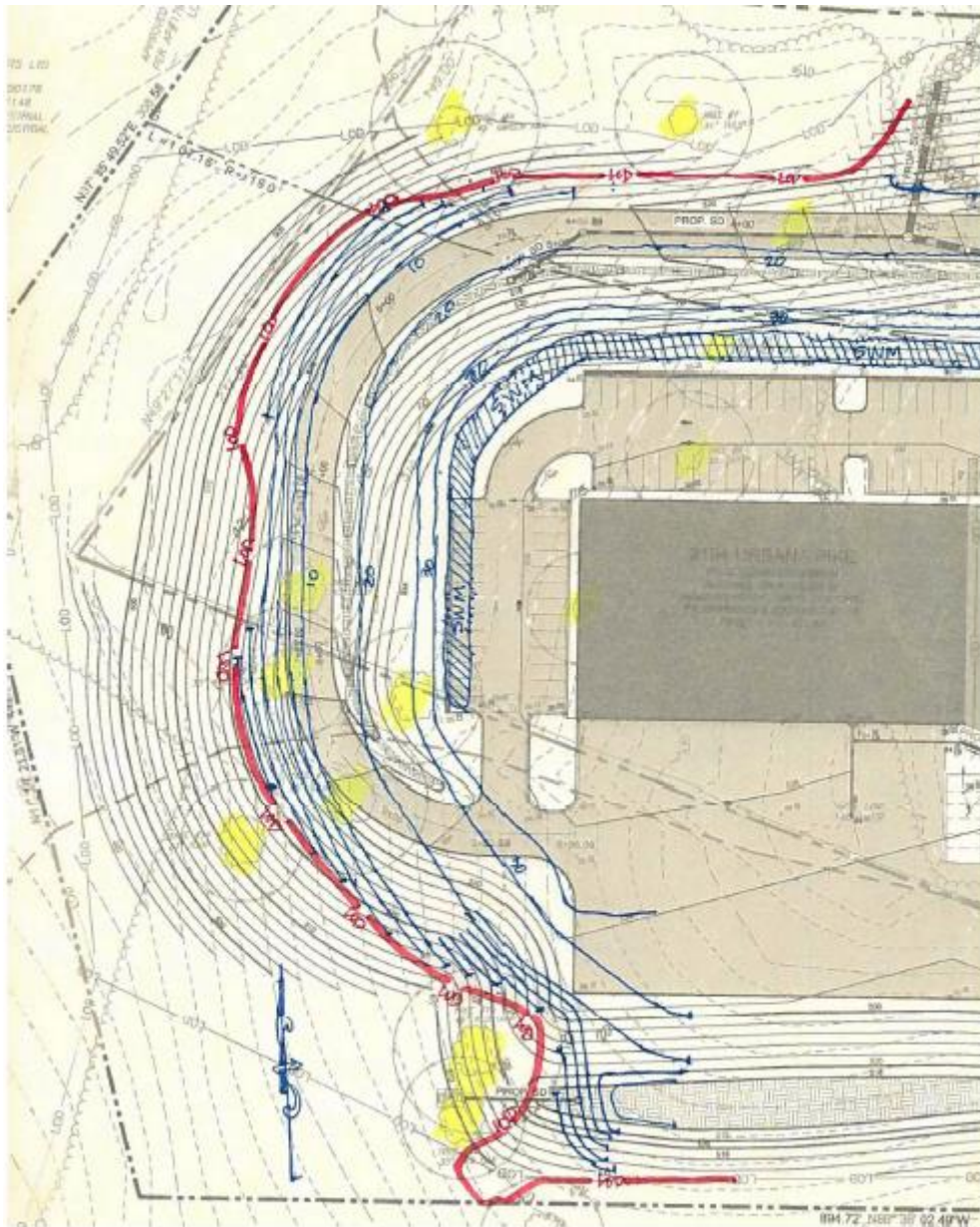


EXHIBIT A
Grading Exhibit Demonstrating Extent Required if Truck Route is Eliminated
Approximate Scale: 1"=50'

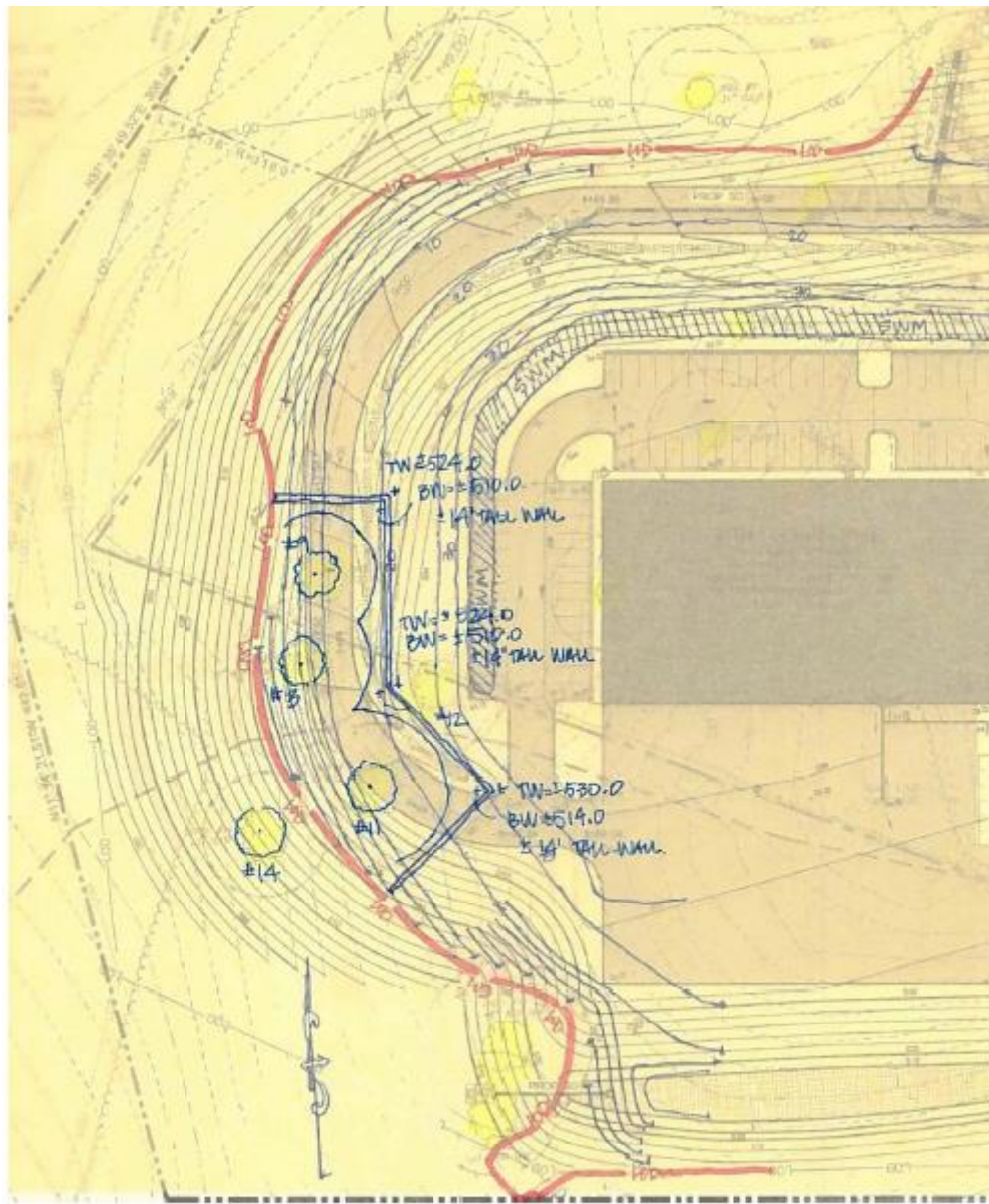


EXHIBIT B
 Wall Exhibit Demonstrating Extent and Height of Retaining Walls if Truck Route is Eliminated
 Approximate Scale: 1"=50'

Letter of Understanding



FREDERICK COUNTY GOVERNMENT
DIVISION OF PLANNING AND PERMITTING
Department of Development Review and Planning

Jan H. Gardner
County Executive

Steve Horn, Division Director
Mike Wilkins, Director

ADEQUATE PUBLIC FACILITIES LETTER OF UNDERSTANDING

Hyattstown Business Park

AP #A258763, #N257702, #SP257740 File #SP99-41

In General: The following Letter of Understanding ("Letter") between the Frederick County Planning Commission ("Commission") and Hyattstown Business Park, LLC ("Developer"), together with its successors and assigns, sets forth the conditions and terms which the Commission deems to be the minimum necessary improvements dealing with school, water, sewer, and road improvements that must be in place for the property identified below to be developed, under the proposed Hyattstown Business Park, LLC site plan (the "Project"), in compliance with the Frederick County Adequate Public Facilities Ordinance ("APFO").

The Developer, its successors and assigns, hereby agrees and understands that unless the required improvements (or contributions to road escrow accounts, as specified below) are provided in accordance with this Letter, APFO requirements will not be satisfied and development will not be permitted to proceed.

This Letter concerns itself with the Developer's 21.08 +/- acre parcel of land, which is zoned LI – Limited Industrial and located west of MD 355, opposite Lewisdale Road. This APFO approval will be effective for the expansion of a manufacturing use, as shown on the site development plan for the above-referenced Project, which was conditionally approved by the Commission on August 12, 2020.

Schools: The Project is non-residential and not subject to schools testing.

Water and Sewer: This Project is classified as W-5/S-5. Public water and sewer are not available to the site. The property will be served by private well and septic system.

Road Improvements: The Project will generate up to 23 am and 24 pm new weekday peak hour trips, which does not exceed the 50 peak hour trip threshold required for APFO testing. However, the Developer is required to provide fair share contributions to existing escrow accounts per Section 1-20-12(H).

1. MD 355/Dr Perry/Big Woods – the Developer shall contribute the appropriate pro-rata share to Existing Escrow Account No. 3931 for signalization of this intersection. As determined by DPDR-Traffic Engineering Staff, the Developer's pro-rata contribution to this road improvement is 0.50% of \$250,000 or \$1,250.

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www.FrederickCountyMD.gov

2. MD 355/MD 75 - the Developer shall contribute the appropriate pro-rata share to Existing Escrow Account No. 3847 for installation of a new traffic signal. As determined by DPDR-Traffic Engineering Staff, the Developer's pro-rata share of this road improvement is 2.53% of \$175,000 or \$4,428.
3. MD 355/Fire Tower Road Intersection - the Developer shall contribute the appropriate pro-rata share to Existing Escrow Account No. 3288 to provide a roundabout at this intersection. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 0.44% of \$401,969 or \$1,769.
4. MD 75 Relocated: South of MD 80 - the Applicant shall contribute the appropriate pro-rata share to Existing Escrow Account #3985 for the realignment of MD 75 just south of MD 80. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 0.43% of \$3,730,000 or \$16,039.

A total of \$23,486 for the escrow payments described above must be paid to the County by the Developer, its successors or assigns, prior to the issuance of any building permit for the Project. Should this payment not be made within one year of the execution of this Letter, the County reserves the right to adjust this amount, based on an engineering construction cost index.

Period of Validity: The APFO approval is valid for three (3) years from the date of Commission approval; therefore, the APFO approval expires on August 12, 2023.

Disclaimer: This Letter pertains to APFO approval only, and shall not be construed to provide any express or implied rights to continue the development process. The Project remains subject to all applicable rules and regulations, including but not limited to those related to zoning, water and sewer, and subdivision. The Planning Commission's jurisdiction and authority is limited by State and County law, and approvals may be required from other local or state governmental agencies before the proposed development can proceed.

[Signatures on the next page]

DEVELOPER: Hyattstown Business Park, LLC

By: CDE Development Group, Inc., Agent

By:  _____

Date: 6-22-20

Name: Henry M. Forster, Executive Vice President

FREDERICK COUNTY PLANNING COMMISSION:

By: _____

Date: _____

Carole Sepe, Chair or Samuel Tressler, Secretary

ATTEST:

By: _____

Date: _____

Gary Hessong, Deputy Director

Planner's Initials / Date

(Approved for technical content)

 7/16/20

County Attorney's Office Initials / Date

(Approved as to legal form)